

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 769

Introduced by Senator Battin

February 21, 2003

An act to repeal Sections 12012.25, 12012.75, and 12012.85 of, and to add Chapter 8 (commencing with Section 12720) to Part 2 of Division 3 of Title 2 of, the Government Code, relating to tribal gaming; ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 769, as amended, Battin. Indian gaming: improvements: funding.

Existing federal law, *the Indian Gaming Regulatory Act of 1988*, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain gaming activities on Indian lands within a state. Existing California law expressly ratifies specified tribal-state compacts and creates in the State Treasury *the Indian Gaming Revenue Sharing Fund* and the Indian Gaming Special Distribution Fund for the receipt and deposit of moneys received by the state from Indian tribes pursuant to the terms of tribal-state gaming compacts. ~~Existing law authorizes moneys in the fund to be appropriated by the Legislature for certain purposes, including grants for programs designed to address gambling addiction, grants for the support of state and local government agencies impacted by tribal government gaming, and compensation for regulatory costs incurred by the State Gaming Agency and the Department of Justice in connection with the implementation and administration of tribal-state gaming compacts.~~

~~This bill would create the Indian Gaming Local Communities Investment Board. The bill would make the Indian Gaming Local Communities Investment Board responsible for determining the eligibility of requests for appropriations of moneys from the Indian Gaming Special Distribution Fund.~~

~~The bill would appropriate an unspecified sum of money from the Indian Gaming Special Distribution Fund to fund: (1) the regulatory functions of the Division of Gambling Control and the Gambling Control Commission, (2) grants for gambling addiction programs, (3) backfilling moneys in the Indian Gaming Revenue Sharing Trust Fund, and (4) mitigating impacts to local governments caused by tribal government gaming.~~

~~The bill would additionally establish the composition of the Indian Gaming Local Communities Investment Board for the purposes of funding grants to mitigate impacts to local governments. The bill would also create two special accounts within the Indian Gaming Special Distribution Fund, the Local Law Enforcement Mitigation Account and the Capital Improvement Mitigation Account, for the purpose of providing grants to local law enforcement agencies and local governmental agencies impacted by tribal gaming, as specified.~~

~~The bill also would reorganize existing provisions relating to tribal gaming and would delete a reference within those provisions to a compact between the state and the Coyote Valley Band of Pomo Indians.~~

~~Vote: majority. Appropriation: yes no. Fiscal committee: yes no. State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 12012.25 of the Government Code is
- 2 repealed.
- 3 SEC. 2. Section 12012.75 of the Government Code is
- 4 repealed.
- 5 SEC. 3. Section 12012.85 of the Government Code is
- 6 repealed.
- 7 SEC. 4. Chapter 8 (commencing with Section 12720) is added
- 8 to Part 2 of Division 3 of Title 2 of the Government Code, to read:
- 9



CHAPTER 8. NATIVE AMERICAN GAMING COMPACTS

12720. (a) The following tribal-state gaming compacts entered into in accordance with the Indian Gaming Regulatory Act of 1988 (18 U.S.C. ~~See: Secs.~~ 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) are hereby ratified:

(1) The compact between the State of California and the Alturas Rancheria, executed on September 10, 1999.

(2) The compact between the State of California and the Barona Band of Mission Indians, executed on September 10, 1999.

(3) The compact between the State of California and the Big Sandy Rancheria Band of Mono Indians, executed on September 10, 1999.

(4) The compact between the State of California and the Big Valley Rancheria, executed on September 10, 1999.

(5) The compact between the State of California and the Bishop Paiute Tribe, executed on September 10, 1999.

(6) The compact between the State of California and the Blue Lake Rancheria, executed on September 10, 1999.

(7) The compact between the State of California and the Buena Vista Band of Mi-wuk Indians, executed on September 10, 1999.

(8) The compact between the State of California and the Cabazon Band of Mission Indians, executed on September 10, 1999.

(9) The compact between the State of California and the Cahto Tribe of Laytonville, executed on September 10, 1999.

(10) The compact between the State of California and the Cahuilla Band of Mission Indians, executed on September 10, 1999.

(11) The compact between the State of California and the Campo Band of Mission Indians, executed on September 10, 1999.

(12) The compact between the State of California and the Chemehuevi Indian Tribe, executed on September 10, 1999.

(13) The compact between the State of California and the Chicken Ranch Rancheria, executed on September 10, 1999.

(14) The compact between the State of California and the Coast Indian Community of the Resighini Rancheria, executed on September 10, 1999.

(15) The compact between the State of California and the Colusa Indian Community, executed on September 10, 1999.

- 1 (16) The compact between the State of California and the Dry
2 Creek Rancheria Band of Pomo Indians, executed on September
3 10, 1999.
- 4 (17) The compact between the State of California and the Elk
5 Valley Rancheria, executed on September 10, 1999.
- 6 (18) The compact between the State of California and the
7 Ewiiapaayp Band of Kumeyaay, executed on September 10,
8 1999.
- 9 (19) The compact between the State of California and the
10 Hoopa Valley Tribe, executed on September 10, 1999.
- 11 (20) The compact between the State of California and the
12 Hopland Band of Pomo Indians, executed on September 10, 1999.
- 13 (21) The compact between the State of California and the
14 Jackson Band of Mi-Wuk Indians, executed on September 10,
15 1999.
- 16 (22) The compact between the State of California and the
17 Jamul Indian Reservation, executed on September 10, 1999.
- 18 (23) The compact between the State of California and the La
19 Jolla Indian Reservation, executed on September 10, 1999.
- 20 (24) The compact between the State of California and the
21 Manzanita Tribe of Kumeyaay Indians, executed on September
22 10, 1999.
- 23 (25) The compact between the State of California and the Mesa
24 Grande Band of Mission Indians, executed on September 10,
25 1999.
- 26 (26) The compact between the State of California and the
27 Middletown Rancheria Band of Pomo Indians, executed on
28 September 10, 1999.
- 29 (27) The compact between the State of California and the
30 Morongo Band of Mission Indians, executed on September 10,
31 1999.
- 32 (28) The compact between the State of California and the
33 Mooretown Rancheria Concow Maidu Tribe, executed on
34 September 10, 1999.
- 35 (29) The compact between the State of California and the Pala
36 Band of Mission Indians, executed on September 10, 1999.
- 37 (30) The compact between the State of California and the
38 Paskenta Band of Nomlaki Indians, executed on September 10,
39 1999.



- 1 (31) The compact between the State of California and the
2 Pechanga Band of Luiseno Indians, executed on September 10,
3 1999.
- 4 (32) The compact between the State of California and the
5 Picayune Rancheria of Chukchansi Indians, executed on
6 September 10, 1999.
- 7 (33) The compact between the State of California and the
8 Quechan Nation, executed on September 10, 1999.
- 9 (34) The compact between the State of California and the
10 Redding Rancheria, executed on September 10, 1999.
- 11 (35) The compact between the State of California and the
12 Rincon, San Luiseno Band of Mission Indians, executed on
13 September 10, 1999.
- 14 (36) The compact between the State of California and the
15 Rumsey Band of Wintun Indians, executed on September 10,
16 1999.
- 17 (37) The compact between the State of California and the
18 Robinson Rancheria Band of Pomo Indians, executed on
19 September 10, 1999.
- 20 (38) The compact between the State of California and the
21 Rohnerville Rancheria, executed on September 10, 1999.
- 22 (39) The compact between the State of California and the San
23 Manuel Band of Mission Indians, executed on September 10,
24 1999.
- 25 (40) The compact between the State of California and the San
26 Pasqual Band of Mission Indians, executed on September 10,
27 1999.
- 28 (41) The compact between the State of California and the Santa
29 Rosa Rancheria Tachi Tribe, executed on September 10, 1999.
- 30 (42) The compact between the State of California and the Santa
31 Ynez Band of Chumash Indians, executed on September 10, 1999.
- 32 (43) The compact between the State of California and the
33 Sherwood Valley Rancheria Band of Pomo Indians, executed on
34 September 10, 1999.
- 35 (44) The compact between the State of California and the
36 Shingle Springs Band of Miwok Indians, executed on September
37 10, 1999.
- 38 (45) The compact between the State of California and the
39 Smith River Rancheria, executed on September 10, 1999.

1 (46) The compact between the State of California and the
2 Soboba Band of Mission Indians, executed on September 10,
3 1999.

4 (47) The compact between the State of California and the
5 Susanville Indian Rancheria, executed on September 10, 1999.

6 (48) The compact between the State of California and the
7 Sycuan Band of Kumeyaay Indians, executed on September 10,
8 1999.

9 (49) The compact between the State of California and the Table
10 Mountain Rancheria, executed on September 10, 1999.

11 (50) The compact between the State of California and the
12 Trinidad Rancheria, executed on September 10, 1999.

13 (51) The compact between the State of California and the Tule
14 River Indian Tribe, executed on September 10, 1999.

15 (52) The compact between the State of California and the
16 Tuolumne Band of Mi-wuk Indians, executed on September 10,
17 1999.

18 (53) The compact between the State of California and the
19 Twenty Nine Palms Band of Mission Indians, executed on
20 September 10, 1999.

21 (54) The compact between the State of California and the Tyme
22 Maidu Tribe, Berry Creek Rancheria, executed on September 10,
23 1999.

24 (55) The compact between the State of California and the
25 United Auburn Indian Community, executed on September 10,
26 1999.

27 (56) The compact between the State of California and the
28 Viejas Band of Kumeyaay Indians, executed on September 10,
29 1999.

30 (b) Any other tribal-state gaming compact entered into
31 between the State of California and a federally recognized Indian
32 tribe which is executed after September 10, 1999, is hereby ratified
33 if both of the following are true:

34 (1) The compact is identical in all material respects to any of the
35 compacts expressly ratified pursuant to subdivision (a). A compact
36 shall be deemed to be materially identical to a compact ratified
37 pursuant to subdivision (a) if the Governor certifies it is materially
38 identical at the time he or she submits it to the Legislature.

39 (2) The compact is not rejected by each house of the
40 Legislature, two-thirds of the membership thereof concurring,



1 within 30 days of the date of the submission of the compact to the
2 Legislature by the Governor. However, if the 30-day period ends
3 during a joint recess of the Legislature, the period shall be
4 extended until the fifteenth day following the day on which the
5 Legislature reconvenes.

6 (c) The Legislature acknowledges the right of federally
7 recognized Indian tribes to exercise their sovereignty to negotiate
8 and enter into tribal-state gaming compacts that are materially
9 different from the compacts ratified pursuant to subdivision (a).
10 These compacts shall be ratified by a statute approved by each
11 house of the Legislature, a majority of the members thereof
12 concurring, and signed by the Governor, unless the statute contains
13 implementing or other provisions requiring a supermajority vote,
14 in which case the statute shall be approved in the manner required
15 by the California Constitution.

16 (d) The Governor is the designated state officer responsible for
17 negotiating and executing, on behalf of the state, tribal-state
18 gaming compacts with federally recognized Indian tribes located
19 within the State of California pursuant to the federal Indian
20 Gaming Regulatory Act of 1988 (18 U.S.C. ~~See~~ *Secs.* 1166 to
21 1168, incl., and 25 U.S.C. Sec. 2701 et seq.) for the purpose of
22 authorizing class III gaming, as defined in that act, on Indian lands
23 within this state. Nothing in this section shall be construed to deny
24 the existence of the Governor's authority to have negotiated and
25 executed tribal-state gaming compacts prior to the effective date
26 of this section.

27 (e) Following completion of negotiations conducted pursuant
28 to subdivision (b) or (c), the Governor shall submit a copy of any
29 executed tribal-state compact to both houses of the Legislature for
30 ratification, and shall submit a copy of the executed compact to the
31 Secretary of State for purposes of subdivision (f).

32 (f) Upon receipt of a statute ratifying a tribal-state compact
33 negotiated and executed pursuant to subdivision (c), or upon the
34 expiration of the review period described in subdivision (b), the
35 Secretary of State shall forward a copy of the executed compact
36 and the ratifying statute, if applicable, to the Secretary of the
37 Interior for his or her review and approval, in accordance with
38 paragraph (8) of Subsection (d) of Section 2710 of Title 25 of the
39 United States Code.

(g) In deference to tribal sovereignty, neither the execution of a tribal-state gaming compact nor the on-reservation impacts of compliance with the terms of a tribal-state gaming compact shall be deemed to constitute a project for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

12721. There is hereby created in the State Treasury a special fund entitled the Indian Gaming Revenue Sharing Trust Fund for the receipt and deposit of moneys derived from gaming device license fees that are paid into the fund pursuant to the terms of tribal-state gaming compacts for the purpose of making distributions to noncompact tribes. Moneys in the fund are available to the California Gambling Control Commission, upon appropriation by the Legislature, for the purpose of making distributions to noncompact tribes, in accordance with distribution plans specified in tribal-state gaming compacts.

12722. There is hereby created in the State Treasury the Indian Gaming Special Distribution Fund for the receipt and deposit of moneys received by the state from Indian tribes pursuant to the terms of tribal-state gaming compacts. Moneys in the fund are available to the Indian Gaming Local Communities Investment Board, upon appropriation by the Legislature, for the following purposes:

(a) Grants, including any administrative costs, for programs designed to address gambling addiction.

(b) Grants, including any administrative costs, for the support of state and local government agencies impacted by tribal government gaming.

(c) Compensation for regulatory costs incurred by the California Gambling Control Commission and the Department of Justice in connection with the implementation and administration of tribal-state gaming compacts.

(d) Disbursements for the purpose of implementing the terms of tribal labor relations ordinances promulgated in accordance with the terms of tribal-state gaming compacts ratified pursuant to Chapter 874 of the Statutes of 1999. No more than 10 percent of the funds appropriated in the Budget Act of 2000 for implementation of tribal labor relations ordinances promulgated in accordance with those compacts shall be expended in the selection of the Tribal Labor Panel. The Department of Personnel

Administration shall consult with and seek input from the parties prior to any expenditure for purposes of selecting the Tribal Labor Panel. Other than the cost of selecting the Tribal Labor Panel, there shall be no further disbursements until the Tribal Labor Panel, which is selected by mutual agreement of the parties, is in place.

(e) Any other purpose specified by law.

~~12723. (a) There is hereby created in state government, the Indian Gaming Local Communities Investment Board.~~

~~(b) The Indian Gaming Local Communities Investment Board is responsible for determining the eligibility of requests for appropriations of moneys from the Indian Gaming Special Distribution Fund. The board shall establish a mechanism for designation of specified moneys and shall set deadlines for the submission of a request for funding for the ensuing fiscal year. The board shall establish priorities for those requests that will benefit the most residents of communities impacted by tribal gaming and shall report to the Controller its recommendation of how to distribute funds in accordance with the purposes set forth in Section 12722.~~

~~(c) Subject to the annual Budget Act, the sum of _____ dollars (\$_____) is hereby appropriated from the Indian Gaming Special Distribution Fund for allocation pursuant to the following schedule:~~

~~(1) The sum of _____ million dollars (\$_____) to the Division of Gambling Control and the Gambling Control Commission for regulatory functions.~~

~~(2) The sum of _____ million dollars (\$_____) to the Department of Mental Health for purposes of funding grants for gambling addiction recovery programs.~~

~~(3) The sum of _____ million dollars (\$_____) to the Indian Gaming Revenue Sharing Trust Fund, established pursuant to Section 12721, for the backfill of moneys. Any backfill of funding of money from the Indian Gaming Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund shall be determined by the Indian Gaming Local Communities Investment Board.~~

~~(4) The sum of _____ million dollars (\$_____) to the Controller for purposes of funding grants to mitigate impacts to local governments caused by tribal government gaming. These moneys shall be deposited in to the Local Law Enforcement Mitigation~~

1 ~~Account and the Capitol Improvement Mitigation Account~~
2 ~~established pursuant to subparagraphs (C) and (D).~~
3 ~~(A) For purposes of funding grants pursuant to paragraph (4)~~
4 ~~the board shall consist of the following:~~
5 ~~(i) Two representatives appointed by the Governor.~~
6 ~~(ii) One tribal representative appointed by the President pro~~
7 ~~Tempore of the Senate.~~
8 ~~(iii) One tribal representative appointed by the Speaker of the~~
9 ~~Assembly.~~
10 ~~(iv) Four tribal representatives, from tribes paying into the~~
11 ~~Indian Gaming Special Distribution Fund, appointed by the~~
12 ~~Governor, based on the following distribution:~~
13 ~~(I) One representative from a northern California tribe and one~~
14 ~~representative from a southern California tribe.~~
15 ~~(II) One representative from a gaming tribe and one~~
16 ~~representative from a nongaming tribe.~~
17 ~~(v) Two representatives designated by the California League of~~
18 ~~Cities, one from a northern California city and one from a southern~~
19 ~~California city.~~
20 ~~(vi) Two representatives designated by the California State~~
21 ~~Association of Counties, one from a rural area and one from an~~
22 ~~urban area.~~
23 ~~(B) The independent grant review panel is responsible for the~~
24 ~~intake, review, and determination of applications for project~~
25 ~~funding. In reviewing grant applications and determining~~
26 ~~eligibility to receive grant funding, the panel shall do all of the~~
27 ~~following:~~
28 ~~(i) Identify the purpose of the grant.~~
29 ~~(ii) Identify the use to which the grant is to be put.~~
30 ~~(iii) Determine if there is a reasonable relationship between the~~
31 ~~grant's use and the type of project on which each grant application~~
32 ~~is based.~~
33 ~~(iv) Determine if there is a reasonable need for the proposed~~
34 ~~project submitted in each grant application.~~
35 ~~(C) There is created within the Indian Gaming Special~~
36 ~~Distribution Fund a special account entitled the Local Law~~
37 ~~Enforcement Mitigation Account. This account shall provide a~~
38 ~~minimum grant of \$100,000 to each impacted local governmental~~
39 ~~law enforcement agency if the agency's project meets the criteria~~
40 ~~set forth in subparagraph (B). For purposes of this subparagraph,~~

1 “law enforcement agency” includes police, sheriffs, fire services,
2 and emergency medical services.

3 ~~(D) There is hereby created within the Indian Gaming Special~~
4 ~~Distribution Fund a special account entitled the Capital~~
5 ~~Improvement Mitigation Account. This account shall provide~~
6 ~~grants to local governmental agencies for capital expenditures on~~
7 ~~projects that are necessary as a result of the unintended impacts~~
8 ~~from tribal gaming. The grants shall only be allocated to local~~
9 ~~governmental agency projects that meet the criteria set forth in~~
10 ~~subparagraph (B). Half of the moneys available in this account~~
11 ~~shall be disbursed to local governments adversely impacted by~~
12 ~~gaming tribes with gaming operations in effect prior to September~~
13 ~~1, 1999. The maximum amount of a single grant provided to a local~~
14 ~~governmental agency pursuant to this subparagraph is two million~~
15 ~~dollars (\$2,000,000).~~

16 ~~(E) No more than 2 percent of the funds appropriated pursuant~~
17 ~~to paragraph (4) of subdivision (c) of this section may be expended~~
18 ~~to cover the administrative costs of the board for conducting its~~
19 ~~duties pursuant to this provision.~~

20 ~~(F) The board shall adopt regulations necessary to further the~~
21 ~~purposes of this act, and shall submit a report to the Legislature on~~
22 ~~how grant money was recommended for disbursement on or~~
23 ~~before ____.~~